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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,377	04/06/2005	Kim Dralle	122847	5150
25944 7590 11/12/2008 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
ABDI, AMARA				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,377

Applicant(s)

DRALLE ET AL.

Examiner

Amara Abdi

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 17-33 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 02/23/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Applicant's response to the last office action, filed July 22, 2008 has been entered and made of record.
2. Applicant's arguments with regard to a new claim 17 have been considered but are moot in view of the new ground(s) of rejection.

Specification

3. The specification is objected to because it does not contain the limitations of claim 17: "a first geographical location", "a second geographical location", "first image", "second image"; as well as the limitation of claim 22: "mass".

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 17-33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(1) Claim 17, recites the limitations; "a first geographical location", "a second geographical location", "first image", "second image". These limitations have no support from the specification, therefore, they are considered as a new matter.

(2) Claim 22, recites the limitation: "mass". This limitation has no support in the specification, therefore, it is considered as a new matter.

6. Claim 33 is rejected under 35 U.S.C. 112 first and second paragraphs as attempting to define a product (i.e., machine or apparatus) entirely by virtue of its function, in the absence of any recited structure.

Products must distinguish over the prior art in terms of their structure (or structure + structure's function when claimed functionally) rather than function alone (MPEP 2114). Therefore, an "apparatus" not having structural limitations fails to "particularly point out and distinctly claim ..." the invention in accordance with 35 U.S.C. 112, 2nd paragraph.

Furthermore, while the specification disclosure may be enabling for a plurality of structural elements performing the claimed functions [1], the specification does not reasonably provide enablement for a single structural element (or no structural elements) performing all of the claimed functions. That is, given the claim in question, the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims ("A single means claim, i.e., where a means recitation does not appear in combination with another recited element of means, is subject to an undue

breadth rejection under 35 U.S.C. 112, first paragraph" because a single means claim covers "every conceivable means for achieving the stated purpose" and "the specification disclosed at most only those means known to the inventor" - *MPEP*, at paragraph 2164.08(a)).

Applicant is advised to define the apparatus by virtue of the individual structural element that serve to perform the individual functions recited in the corresponding method claim.

[1] Even when an apparatus is disclosed as being computer implemented (e.g., software implemented on hardware), the requirement remains that there be some structure recited in the body of the claim (e.g., a processor and a memory storing a program which when implemented performs the method steps). For purposes of "means plus function" language, individual disclosed steps corresponding to computer program elements operating on a processor (e.g., inputting, filtering, detecting and resolving) may be considered as separate means (*Dossel*, 115 F.3d at 946-47, 42 USPQ2d at 1885).

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 17-33 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101" – publicly available at USPTO.GOV, "memorandum to examining corp"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

9. Claim 33 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 33 defines a system embodying functional descriptive material (i.e., a computer program or computer executable code), (see paragraph [0021], in specification: "In particular standard cameras, standard image formats, standard graphics hard and software, standard computer units with accompanying operating systems suffice to build an operational system"). However, the claim does not define a "computer-readable medium or

computer-readable memory" and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). The scope of the presently claimed invention encompasses products that are not necessarily computer readable, and thus NOT able to impart any functionality of the recited program. The examiner suggests amending the claim(s) to embody the program on "computer-readable medium" or equivalent; assuming the specification does NOT define the computer readable medium as a "signal", "carrier wave", or "transmission medium" which are deemed non-statutory (refer to "note" below). Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 17-24 and 27-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sörvik (US 6,182,725) in view of Davis (US 4,913,551).

(1) Regarding claims 17 and 33:

Sörvik teaches a method and system for forestry (Abstract, line 1), comprising the steps:

determining a first geographic location (harvesting location) (Fig.3, col. 6, lines 27-30) of an object (log) (col. 5, lines 23-27);

transporting the object (Fig. 5, col. 6, lines 37-41) from the first geographical location (harvesting location) (Fig.3, col. 6, lines 27-30) to a second geographical location (discharging location) (Fig. 7, col. 5, lines 32-35);

determining (col. 5, lines 23-27), at the second geographical location (discharging location) (Fig. 7, col. 5, lines 32-35), the first geographical location of the object (harvesting location) (Fig.3, col. 6, lines 27-30).

However, Sörvik does not teach explicitly the taking, at the first geographical location, at least one first image of the object enabling identification of the object, and taking, at the second geographical location, at least one second image of the object enabling identification of the object.

Davis, in analogous environment, teaches the taking of at least one first image and second image of the object (Fig. 4, col. 4, lines 38-40) enabling identification of the object (col. 7, lines 28-36).

It is desirable to provide means to quickly, easily, and accurately measure the length of an elongated object or group of objects without actually tape scaling, scanning, viewing, photographing, or in any way traversing or sensing that length. The Davis approach, where taking images of the object is to achieve this goal. Therefore, it would

have been obvious to one having ordinary skill in the art at the time of the invention, to apply the Davis teaching to use the cameras 1-4 in both the harvesting location and the discharging, with the Sörvik method, to take an image of the object in both geographical location enabling identification of the object, because such combination provides means to quickly, easily, and accurately measure the length of an elongated object or group of objects without actually tape scaling, scanning, viewing, photographing, or in any way traversing or sensing that length (col. 3, lines 21-25).

(2) Regarding claim 18:

Sörvik and Davis teach the parental claim 17. Furthermore, Sörvik teaches the method, wherein the object is log (col. 4, line 35).

(3) Regarding claim 19:

Sörvik and Davis teach the parental claim 18. Furthermore, Sörvik teaches the method, wherein the first geographical location is a location of harvesting the log (harvesting location) (Fig.3, col. 6, lines 27-30).

(4) Regarding claim 20:

Sörvik and Davis teach the parental claim 18. Furthermore, Davis teaches the method, wherein at least one of the at least one first and second image (Davis: Fig. 4, col. 4, lines 38-40) allow determining characteristic data about the log (Davis: Figs. 5, 6, col. 3, lines 49-52).

(5) Regarding claim 21:

Sörvik and Davis teach the parental claim 20. Furthermore, Davis teaches the method, wherein the characteristic data (Davis: Figs. 5, 6, col. 3, lines 49-52) include a volume of the log (Davis: col. 5, lines 68).

(6) Regarding claim 22:

Sörvik and Davis teach the parental claim 20. Furthermore, Davis teaches the method, wherein the characteristic data (Davis: Figs. 5, 6, col. 3, lines 49-52) include a mass of the log (Davis: col. 5, lines 68).

(7) Regarding claim 23:

Sörvik and Davis teach the parental claim 20. Furthermore, Davis teaches the method, wherein the characteristic data (Davis: Figs. 5, 6, col. 3, lines 49-52) include a quality of the log (Davis: column 3, line 36).

(8) Regarding claim 24:

Sörvik and Davis teach the parental claim 20. Furthermore, Davis teaches the method, wherein the characteristic data (Davis: Figs. 5, 6, col. 3, lines 49-52) include a specie of the log (Davis: column 5, line 46).

(9) Regarding claim 27:

Sörvik and Davis teach the parental claim 20. Furthermore, Sörvik teaches the method, further comprising, at the second geographical location (discharging location) (Figs. 5, 7), unloading (discharging) (Sörvik: Fig. 5, col. 5, line 33) a plurality of logs (Sörvik: Fig. 7, col. 5, lines 32-35) from a forwarder (vehicle) (Sörvik: col. 6, line 39).

(10) Regarding claim 28:

Sörvik and Davis teach the parental claim 20. Furthermore, Sörvik teaches the method, further comprising, at the second geographical location (discharging location) (Figs. 5, 7), reloading (charging) (Fig. 5) a plurality of logs onto a forwarder (vehicle) (Sörvik: col. 6, line 39).

(11) Regarding claim 29:

Sörvik and Davis teach the parental claim 20. Furthermore, Sörvik teaches the method, further comprising, at second geographical location (discharging location) (Figs. 5, 7), processing a log in sawmill (Sörvik: col. 6, lines 40-41).

(12) Regarding claim 30:

Sörvik and Davis teach the parental claim 20. Furthermore, Sörvik teaches the method, wherein the first geographical location of each individual object (the harvesting location) (Sörvik: Fig.3, col. 6, lines 27-30) is determined using a satellite based global positioning system (Sörvik: 6 in Fig. 4, col. 4, lines 52-55).

(13) Regarding claim 31:

Sörvik and Davis teach the parental claim 17. Furthermore, Davis teaches the method, wherein the at least one first and second image (Davis: Fig. 4, col. 4, lines 38-40) each includes a pair of stereo images (Davis: Fig. 4) taken by a pair of cameras (camera 1 and 2) (Davis: Fig. 1, col. 4, lines 46).

(14) Regarding claim 32:

Sörvik and Davis teach the parental claim 17. Furthermore, Davis teaches the method, wherein the pair of camera (camera 1 and 2) is mounted on equipment handling a log (Davis: Fig. 1, col. 4, lines 46-47).

12. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sörvik and Davis, as applied to claim 20 above, and further in view of Chi et al. (US 4,364,732).

The combination Sörvik and Davis teach the parental claim 20. However, the combination Sörvik and Davis do not teach explicitly the curvature of the log, and the taper of the log.

Chi et al., in analogous environment, teach the method, where using the item data for representing an elongated objects (log) (col. 3, lines 40-44), the representation may include taper and curvature (col. 3, lines 45-46).

It is desirable to provision in the interactive system for the comparison display of cumulative results for a series of elongated objects. The Chi et al. approach, where the representation of the log may include taper and curvature is to achieve this goal. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to apply the Chi et al. teaching, where the representation of the log may include taper and curvature, with the combination Sörvik and Davis, because such feature, makes the provision in the interactive system for the comparison display of cumulative results for a series of elongated objects (col. 2, lines 16-18).

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information:

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amara Abdi whose telephone number is (571)270-1670. The examiner can normally be reached on Monday through Friday 8:00 Am to 4:00 PM E.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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